

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 93-748-E - ORDER NO. 94-598✓

JUNE 22, 1994

IN RE: Energy Policy Act of 1992 - Section 111 - Encouragement of Investments in Conservation and Energy Efficiency by Electric Utilities	) ORDER ADDRESSING ) SECTION 111 OF ) THE ENERGY POLICY ) ACT OF 1992 )
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This matter is before the Public Service Commission of South Carolina (the Commission) for consideration of whether the adoption of certain standards established by the Energy Policy Act of 1992 (the EPACT or the Act) will carry out the purposes of the Public Utility Regulatory Policies Act of 1978 (PURPA). Specifically before the Commission in this docket is the consideration of the standards established by Section 111 of the EPACT.

FINDINGS OF FACT

AND

CONCLUSIONS OF LAW

The EPACT became law on October 24, 1992. The Act, among other things, amends Section 111 of PURPA. In relevant part, PURPA requires each State regulatory authority to consider whether or not it is necessary to implement certain standards to carry out its purposes. PURPA, Section 111(a). The purposes of PURPA are as follows: to encourage (1) conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3)

equitable rates to electric consumers. PURPA, Section 101.

Section 111(a) of the EPACT adds the following three standards to PURPA:

7. Integrated Resource Planning. - Each electric utility shall employ integrated resource planning.<sup>1</sup> All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

8. Investments in Conservation and Demand Management. - The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management<sup>2</sup> measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution

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1. In the case of an electric utility, the term "integrated resource planning" is defined in the Act as follows:

...a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

EPACT Section 111 (d)(19).

The Act defines "system cost" as "all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance."

EPACT Section 111 (d)(20).

2. The EPACT defines demand side management as including "load management techniques." Section 111 (d)(21).

equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

9. Energy Efficiency Investments in Power Generation and Supply. - The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission, and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.

In addition, Section 111(b) of the Act amends PURPA by adding the following new subsection at the end of Section 111(c) of PURPA:

(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall -

(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand side management measures, and

(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

Section 111 of the Act requires that the Commission consider and determine whether it is appropriate to implement the three above standards and, if necessary, consider the impact on small businesses by October 23, 1995.

On December 9, 1993, the Commission issued a Notice of Proceeding instructing interested parties on the scope of the proceeding and the manner in which to participate as a party of record. The Notice of Proceeding requested interested parties to

file comments on the Section 111 issues. The four jurisdictional utilities, Carolina Power & Light Company (CP&L), South Carolina Electric and Gas Company (SCE&G), Duke Power Company (Duke), and Lockhart Power Company (Lockhart), were made parties of record. The Commission instructed these utilities to publish one-time the Notice of Proceeding in newspapers of general circulation. The utilities complied with this directive. Thereafter, the South Carolina Energy Users Committee (SCEUC), the Consumer Advocate for the State of South Carolina (the Consumer Advocate), Nucor Steel, A Division of Nucor Corporation (Nucor), South Carolina Pipeline Corporation (Pipeline), and Allied-Signal, Inc. (Allied) intervened as parties of record. Each of these parties had the opportunity to submit initial and reply comments.

Thereafter, the parties were able to reach stipulations which addressed all of the issues raised by Section 111 of the EPACT. Attachment A to this Order is the stipulation reached by Lockhart, Duke, SCE&G, CP&L, the Consumer Advocate, Nucor, Pipeline, Allied, and the Commission Staff. Attachment B to this Order is the stipulation reached between the SCEUC and the Commission Staff.<sup>3</sup>

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3. The two stipulations are identical except that the agreement between the SCEUC and the Commission Staff does not contain the language "[t]he parties agree that, in attempting to comply with the objective and procedures of the Commission's IRP process, the electric utilities should seek to avoid those situations which result in an unfair competitive advantage over small energy related businesses."

After a thorough review of the applicable law, the submitted comments, and the two stipulations, the Commission concludes that the stipulations should be and hereby are approved.

IT IS SO ORDERED.

  
VICE Chairman

ATTEST:

  
Executive Director

(SEAL)

STIPULATION FOR DOCKET NO. 93-748-E

IN RE: Encouragement of Investments in Conservation and Energy Efficiency By Electric Utilities ( Energy Policy Act of 1992)

PREAMBLE

A. Section 111 of the Energy Policy Act of 1992 (EPACT) requires state public commissions to consider whether adoption of certain standards would carry out the purposes of the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Section 111 (d) standards to be considered are:

7. Integrated Resource Planning (IRP).- Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

8. Investments In Conservation and Demand Management.- The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investments in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment.

9. Energy Efficiency Investments In The Power Generation And Supply.- The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

Under the EPACT Section 111(d), if either standard seven or eight is implemented, the Commission shall:

1. consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy

conservation, energy efficiency or other demand side management measures, and

2. implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such businesses.

B. On December 9, 1993 the Public Service Commission of South Carolina issued a notice of proceeding under Docket No. 93-748-E inviting all interested parties wishing to participate to intervene by January 20, 1994. The parties were asked to address the following issues within initial comments which were to be filed by March 1, 1994:

1. Whether the Section 111 standards are necessary to carry out the purposes of PURPA;

2. If the Section 111 standards are necessary to carry out the purposes of PURPA, whether the Commission's current IRP procedure is consistent with those purposes and, if not, recommendations to make the IRP consistent;

3. If the Section 111 standards seven and eight are adopted, recommendations on procedures to address the effect of their implementation on small businesses.

C. In addition to the Commission Staff, Carolina Power & Light Company, Duke Power Company, Lockhart Power Company and South Carolina Electric and Gas Company the intervening parties included the Consumer Advocate for the State of South Carolina, the Department of Defense and Federal Executive Agencies, the South Carolina Energy Users Committee, Allied Signal, Inc., South Carolina Pipeline Corporation, and NUCOR Steel, a Division of NUCOR Corporation.

D. Reply Comments were filed by the parties on April 15, 1994.

#### STIPULATION

1. The parties to this stipulation agree that the Public Service Commission of South Carolina has provided public notice and conducted a hearing process concerning the appropriateness of the EPACT Section 111 amendments to PURPA in full compliance with the requirements of EPACT.

2. The parties to this stipulation agree that the standards enumerated as (d) seven (7), eight (8) and nine (9) to Section 111 of EPACT do not need to be implemented or adopted

by the Commission at this time to carry out the purposes of the PURPA. The South Carolina Energy Conservation and Efficiency Act of 1992 specifically addresses the subject matter of Standards (d) (7), (8) and (9) within Sections 58-37-10 through 58-37-40. Further, the Commission's IRP process, established in Docket No. 87-223-E, already implements the Section 111 standards to the degree necessary and/or appropriate at this time. Therefore, it is neither necessary nor appropriate for the Commission to adopt the Section 111 standards at this time.

3. The parties to this stipulation agree that since it is not necessary for the Commission to implement or adopt the Section 111 (d) standards set forth in paragraphs (7) and (8), it is not necessary for the Commission to address the effect of implementation of these standards on small businesses. The parties agree that, in attempting to comply with the objective and procedures of the Commission's IRP process, the electric utilities should seek to avoid those situations which result in an unfair competitive advantage over small energy related businesses.

Leslie Anderson  
Leslie Anderson, General Manager  
Lockhart Power Company

Len S. Anthony  
Len S. Anthony, Esquire  
Carolina Power & Light Company

William Larry Porter  
William Larry Porter, Esquire  
Duke Power Company

Belton T. Zeigler  
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South Carolina Electric & Gas

Nancy Vaughn Coombs  
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Gayle B. Nichols  
Gayle B. Nichols, Staff Counsel  
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Garrett A. Stone  
Garrett A. Stone, Esquire  
Nucor Steel

Sarena D. Burch  
Sarena D. Burch, Esquire  
SC Pipeline Corporation

Carolyn C. Matthews  
Carolyn C. Matthews, Esquire  
Allied-Signal, Inc.

\*These signatures conform to the original.

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Under the EPACT Section 111(d), if either standard seven or eight is implemented, the Commission shall:

1. consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

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2. implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such businesses.

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3. If the Section 111 standards seven and eight are adopted, recommendations on procedures to address the effect of their implementation on small businesses.

C. In addition to the Commission Staff, Carolina Power & Light Company, Duke Power Company, Lockhart Power Company and South Carolina Electric and Gas Company the intervening parties included the Consumer Advocate for the State of South Carolina, the Department of Defense and Federal Executive Agencies, the South Carolina Energy Users Committee, Allied Signal, Inc., South Carolina Pipeline Corporation, and NUCOR Steel, a Division of NUCOR Corporation.

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STIPULATION

1. The parties to this stipulation agree that the Public Service Commission of South Carolina has provided public notice and conducted a hearing process concerning the appropriateness of the EPACT Section 111 amendments to PURPA in full compliance with the requirements of EPACT.

2. The parties to this stipulation agree that the standards enumerated as (d) seven (7), eight (8) and nine (9) to Section 111 of EPACT do not need to be implemented or adopted by the Commission at this time to carry out the purposes of the PURPA. The South Carolina Energy Conservation and Efficiency Act of 1992 specifically addresses the subject matter of Standards (d) (7), (8) and (9) within Sections 58-37-10 through 58-37-40. Further, the Commission's IRP process, established in Docket No. 87-223-E, already implements the Section 111 standards to the degree necessary and/or appropriate at this time. Therefore, it is neither necessary nor appropriate for the Commission to adopt the

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3. The parties to this stipulation agree that since it is not necessary for the Commission to implement or adopt the Section 111 (d) standards set forth in paragraphs (7) and (8), it is not necessary for the Commission to address the effect of implementation of these standards on small businesses.

Arthur G. Fusco  
Arthur G. Fusco, Esquire  
SC Energy Users Committee

Gayle B. Nichols  
Gayle B. Nichols, Staff Counsel  
South Carolina Public Service  
Commission

\*These signatures conform to the original.